

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION)**

IN RE:

Polly A. Mark-Stephens

Debtor

Case No.: 17-11415

Chapter: 13

Hearing Date: 07/15/2021

Judge Donald R. Cassling

NOTICE OF MOTION

TO: M O Marshall, Chapter 13 Trustee, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603
by electronic notice through ECF
Polly A. Mark-Stephens, Debtor, 4144 Lindenwood Drive, Apt. 2B, Matteson, IL 60443
Trent L Stephens, Co-Debtor, 15601 Turner Ave, Markham, IL 60428-3959
David M Siegel, Attorney for Debtor, 790 Chaddick Drive, Wheeling, IL 60090
by electronic notice through ECF
Office of U.S. Trustee, 219 S. Dearborn St., Room 873, Chicago, IL 60604
by electronic notice through ECF

PLEASE TAKE NOTICE that on 07/15/2021, at 9:30AM, I will appear before the Honorable Judge Donald R. Cassling, or any judge sitting in that judge's place, and present the motion of Codilis & Associates, P.C. for Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5, a copy of which is attached.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and password.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

Meeting ID and password. The meeting ID for this hearing is 161 414 7941 and the password is 619. The meeting ID and password can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

/s/ Peter C. Bastianen
Attorney for Movant

Peter C. Bastianen ARDC#6244346
pete.bastianen@il.cslegal.com
Codilis & Associates, P.C.
15W030 North Frontage Road, Suite 100
Burr Ridge, IL 60527
(630) 794-5300
14-13-27970

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on July 2, 2021 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on July 2, 2021.

M O Marshall, Chapter 13 Trustee, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603
by electronic notice through ECF

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/s/ Peter C. Bastianen
Attorney for Movant

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Peter C. Bastianen ARDC#6244346

Joel P. Fonferko ARDC#6276490

Brenda Ann Likavec ARDC#6330036

Terri M. Long ARDC#6196966

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY

NOW COMES Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5, (hereinafter “Movant”), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Movant relief from the automatic stay and co-debtor stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 15601 Turner Ave, Markham, IL 60428-3959 (hereinafter “Subject Property”);

3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 04/11/2017;

4. The Chapter 13 plan herein provides for the Debtor to execute a quit claim deed for the Subject Property to her spouse in their divorce proceedings;

5. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 06/10/2021, the loan past due for the 05/01/2017 post-petition payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 06/10/2021, the total post-petition default through and including 06/01/2021, is \$112,651.06. Any payments received after this date may not be reflected in this default;
- c) On 07/01/2021, the default will increase to \$115,111.89 and will continue to increase as additional amounts become due;

6. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

7. That the subject note and mortgage are co-signed by Trent L Stephens and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Trent L Stephens and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

8. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5 (the noteholder). Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5 (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed;

9. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

| | |
|------------|--|
| \$1,050.00 | for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same |
| \$188.00 | for Court filing fee |

10. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order.

WHEREFORE, Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-OPT5, Asset-Backed Certificates, Series 2006-OPT5 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) and Section 1301(c) modifying the automatic stay and co-debtor stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this July 2, 2021.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Peter C. Bastianen

Berton J. Maley ARDC#6209399
Rachael A. Stokas ARDC#6276349
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
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